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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/818,912	03/28/2001	Koichi Tamura	00-090442	2418
7590	10/29/2004		EXAMINER	
McGinn & Gibb, PLLC Suite 200 8321 Old Courthouse Road Vienna, VA 22182-3817			PHU, PHUONG M	
			ART UNIT	PAPER NUMBER
			2631	

DATE MAILED: 10/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/818,912	TAMURA, KOICHI
Examiner	Art Unit	
Phuong Phu	2631	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 21 February 2003.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-20 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-3,5,8-10,12,14 and 18 is/are rejected.

7)  Claim(s) 4,6,7,11,13,15-17,19 and 20 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/28/01, 2/21/03, 11/21/02

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_ .

**DETAILED ACTION**

***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Oath/Declaration***

2. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:  
It does not identify the citizenship of each inventor.

***Information Disclosure Statement***

3. The applicant is hereby notified that reference “Japanese Office Action” listed under section “OTHER DOCUMENTS” of the IDS filed on 11/22/02 has been considered by the examiner; however, it is not initialed by the examiner because it is not considered as a prior art.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 14 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 14 recites the limitation “said thirteenth step” on line 4. This limitation is lack of antecedent basis.

Claims, dependent on above claim, are therefore also rejected.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

7. Claims 1-3, 5, 8-10 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Kondo (6,178,193).

-As per claim 1, see figures 1 and 5, and col. 4, line 32 to col. 5, line 57 and col. 7, line 49 to col. 8, line 26, Kondo discloses a method and associated system (see figure 1) comprising: delay profile calculating step/means (16) for calculating delay profiles of received signals;

path assigning step/means (17, 18) for assigning path locations to a plurality of fingers (31-1,...,31-M) based on the calculation result obtained in said delay profile calculating means; the plurality of fingers (31-1,...,31-M) to which the path locations are assigned by said path assigning means, the fingers de-spreading the assigned paths (see col. 5, lines 46-57); and

rake combining step/means (32) for combining output of said plurality of fingers, wherein the system comprises reception controlling means (15, 17, 18) that estimates “fading period” obtained from the reception level combined by said rake combining means (see figure 5, and col. 7, line 49 to col. 8, line 26) and that reduces degradation in receiving characteristics using the estimation result (see col. 2, lines 23-43 and col. 3, lines 33-44). As shown in figure 5, the estimated fading period can be considered as equivalent to an estimation of a drop cycle of a reception level from the reception level combined by said rake combining means.

-Regarding to claims 2 and 9, in Kondo, said fading period “drop cycle” of the reception level is inherently a fading pitch obtained (see figure 5) when receiving, while moving, reception waves that form standing waves with being reflected and diffracted by obstacles in a fading “multipath” environment.

-Regarding to claims 3 and 10, Kondo discloses estimating means (15) for estimating the fading period “drop cycle” of the reception level from the reception level combined by said rake combining means, and path assignment controlling means (17) for controlling said path assigning means based on the estimation result obtained in said estimating means (see figure 1).

-Regarding to claims 5 and 12, Kondo discloses that said reception controlling means comprises estimating means (15) for estimating the fading period “drop cycle” of the reception level from the reception level combined by said combining means, and delay profile averaging cycle controlling means (17) for controlling an averaging cycle (as an integration period which is noticed by means (15) (see col. 5, lines 28-34) for the delay profiles in said delay profile calculating means based on the estimation result obtained in said drop time estimating means.

***Allowable Subject Matter***

8. Claims 4, 6, 7, 11, 13, 15-17, 19 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
9. Claims 14 and 18 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuong Phu whose telephone number is 571-272-3009. The examiner can normally be reached on M-F (6:30-2:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mohammad Ghayour can be reached on 571-272-3021. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Phuong Phu  
10/01/04

**PHUONG PHU**  
**PRIMARY EXAMINER**

Phuong Phu  
Primary Examiner  
Art Unit 2631